



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 13, 1996

Mr. Patrick S. Dohoney
Assistant District Attorney
Tarrant County
401 W. Belknap
Fort Worth, Texas 76196-0201

OR96-0178

Dear Mr. Dohoney:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38308.

The Tarrant County Jail (the "jail") received an open records request for a certain individual's jail records, including the dates of incarceration and information pertaining to the individual's participation in a work release program. You first contend that the jail need not release the requested documents because the requestor did not identify the particular types of records he was seeking. A request for records made pursuant to the Open Records Act may not be disregarded simply because a citizen does not specify the exact documents he desires. When a requestor makes a vague request, you should make a good faith effort to advise the requestor of the type of documents available so that the requestor may narrow the request. *See* Open Records Decision No. 87 (1975). In this instance, however, you have submitted to this office records that appear to be responsive to the open records request. We therefore deem your argument that the open records request was unclear as moot.

You also contend that the requested information is excepted from required public disclosure under section 552.101 of the Government Code because the information constitutes confidential criminal history information. Section 552.101 excepts information coming within the protection of common-law privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85. In *United States Department of Justice v. Reporters Committee For Freedom of the Press*, 489 U.S. 749 (1989), the U.S. Supreme

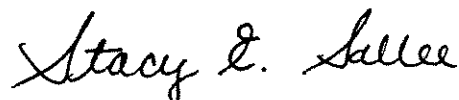
Court concluded that where an individual's criminal history information is compiled or summarized by a *governmental entity*, the information takes on a character that implicates individual's right of privacy in a manner that the same individual records in an uncompiled state do not.

It is not apparent to this office that the requested information constitutes an impermissible compilation of criminal history information. We note that the requestor has sought information about a specific incarceration of the individual at issue and has identified the date on which the individual was incarcerated. Such a specific request for records does not require a compilation of records by jail officials that implicates the arrested individual's privacy interests. *Cf.* Open Records Decision No. 127 (1976) at 6 (broad request for compilation of individual's criminal history).

However, it is not clear whether the records you submitted to this office contain references to other unrelated arrests of the individual in question. To the extent that the records at issue contain references to prior, *unrelated* arrests of the individual in question, we agree that such information would be protected by a common-law right of privacy.¹ *See United States Department of Justice v. Reporters Committee For Freedom of the Press*, 489 U.S. 749 (1989). The jail must release all remaining information contained in these records.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/RWP/ch

Ref.: ID# 38308

Enclosures: Submitted documents

¹Because the federal regulations governing the release of criminal history information explicitly prohibit the confirmation of either "the existence or non-existence of criminal history record information to any person or agency that would not be eligible to receive the information itself," *see* 28 C.F.R. § 20.21(c)(2), this ruling should in no way be interpreted as confirming the existence of such information in these records.

cc: Mr. Darrell W. Shaver
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(w/o enclosures)